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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,643	01/11/2000	Victor S. Moore	BOC990080US1	4561
52023	7590	07/15/2005	EXAMINER	
SACCO & ASSOCIATES, P.A. P.O. BOX 30999 PALM BEACH GARDENS, FL 33420-0999			LANEAU, RONALD	
		ART UNIT		PAPER NUMBER
		3627		

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/480,643	MOORE ET AL.
	Examiner Ronald Laneau	Art Unit 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 02 May 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

1)  Claim(s) 1,3,5,6,9,10 and 14-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,3,5,6,9,10 and 14-21 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/02/05 has been entered.

***Status of Claims***

2. Claims 1, 3-6, 9, 10, 14-21 remain pending.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-6, 9, 10, and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fano in view of Carlton-Foss.

Fano teaches a system for communication of a proposed transaction in a local area. As seen in the summary of the invention of Fano, an agent running on a Personal Digital Assistant (PDA) equipped with a Global Positioning System (GPS) receiver supports location targeted shopping in an outdoor mall. The agent assists shoppers by providing information about merchandise in which the shopper has expressed an interest. As a shopper strolls through a mall,

the system alerts the shopper to merchandise of previously specified categories in the surrounding stores, as well as any cheaper alternatives in the local area. The system of Fano utilizes the user's precise physical location to filter the information it presents. Fano also teaches that alternative shopping is available for products similar but not exact to the one requested. In Fano, it is noted to address the need of many shoppers to visit malls or shop generally without a particular destination in mind. FIG. 27 illustrates a display in accordance with a preferred embodiment of the invention. The display operates in a browse mode for use by shoppers as they stroll through the mall. In browse mode the system suggests items of interest for sale in the stores currently closest to the shopper. An item is considered to be of interest if it matches the categories entered in the goals screen. If there are no items of interest, the general type of merchandise sold at that store is displayed, rather than specific items. As the shopper strolls a map displays his or her precise current location in the mall. If an item displayed is selected by the shopper while browsing, the system alerts the shopper to the local retailer offering the same product for the lowest price, or announces the best local price. This search is restricted to the local mall, as that is the assumed radius the shopper is willing to travel. The system of Fano can also communicate directly with local merchants in the local area over a short range wireless communication link as claimed (fig. 17).

It is also noted that the agent will support broader aspects of the shopping task, for example, it could operate as bi-directional channels. That is, not only can they provide information to the shopper, but, at the shopper's discretion, they may provide information to retailers as well. In this embodiment, the system indicates a shopper's goals and preferences to a retailer-based agent, who, in turn, responds with a customized offer that bundles service along

with the product. Enabling the customization of offers is crucial to gaining the cooperation of retailers who are reluctant to compete solely on price and of value to customers who base their purchases on criteria other than price. While the preferred embodiment focuses on location-based filtering primarily in the context of the shopping task, the current invention provides the basis for "physical task support" agents that provide an information channel to people engaged in various tasks in the physical world.

As noted above Fano teaches all of the elements of the claimed invention with the exception of "transmitting information on said first bid to a second merchant" and using a cellular telephone as the wireless device.

However, Carlton-Foss is submitted to demonstrate the well-known, networked based competitive bidding process which includes notification of a first bid (offer) by one merchant (supplier) to a second merchant supplier). Specifically, attention is invited to col. 3, lines 50-68 of Carlton-Foss which teaches a reverse auction engine in communication with the request database and the bid database, and a security manager that allows requestors to designate whether a request shall be generally available and to designate the parties who shall have access to bid on it, and a display system that displays selected information from the request database and the bid database to appropriate requestors and bidders so that the bidders are encouraged to compete in an open marketplace and the requestors may witness the bidding and alter the environment of that bidding before and during the time of the competitive bidding process.

Accordingly, to provide the system of Fano with a competitive bidding process, such as the one shown in Carlton-Foss, would have been obvious for one having ordinary skill in the art at the time of the invention. The motivation for such a change in Fano can be seen in column 1,

lines 1-4 of Carlton-Foss, which teaches the advantage of this system is that it results in greater value for requestors, as well as greater sales and broader distribution for sellers who are prepared to be competitive in their offerings. By incorporating an auction format, which is available to a wide audience by electronic means, the inventive system results in more bidders, greater response, and hence lower costs and greater value for the requestor.

Regarding the particular type of wireless communication systems used, such as a cell phone. Blue tooth, Wi-Fi, etc., these systems are functional equivalents for one another. Accordingly, it would have been obvious for one having ordinary skill to pick any desirable wireless system to be employed by Foss.

Regarding claim 14, a displayed bid is essentially a bid sent to other bidders.

#### *Response to Arguments*

5. Applicant argues that Fano does not support communications directly between merchants and the mobile wireless device. Contrary to Applicant's arguments, the central management system is used by Fano to access the profile information of a user and then communication can be done directly between the merchants and said user. Further, Applicant argues that the GPS technology taught by Fano teaches away from the present invention and its use of short range wireless communications. Contrary to Applicant's arguments, Fano's system took it a step further by using the GPS which covers a broader range wireless communication system and that would certainly include the short range wireless communication. As far as the Carlton-Foss failing to teach or suggest a system where communications are sent directly between a mobile wireless device and merchants but this is already taught by Fano. Further, the same reasoning as

to Fano applies for Carlton-Foss that covers an expanding area, which would include the limiting geographic area. Applicant's arguments are deemed unpersuasive, claims 1, 3, 5, 6, 9, 10 and 14-21 stand rejected.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Ronald Laneau*  
Ronald Laneau      6/10/05  
Examiner  
Art Unit 3627